

Appendix A  
Annotated Code of Maryland  
[FOR INFORMATIONAL PURPOSES ONLY]

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## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS**

##### **Environment § 2-103. Powers and duties of Department**

(a) Authority to obtain funds. -- In addition to the powers set forth elsewhere in this title, the Department may obtain any federal or other funds that are available to this State for purposes that are within the scope of this title.

(b) Duties. -- In addition to the duties set forth elsewhere in this title, the Department:

- (1) Has jurisdiction over emissions into the air and ambient air quality in this State;
- (2) Is responsible for monitoring ambient air quality in this State; and
- (3) Shall coordinate all State agency programs on ambient air quality control.

(c) Use of monitoring facilities. -- The Department may contract for or otherwise arrange for the use of the facilities and services of appropriate agencies of political subdivisions in carrying out the Department's monitoring duties under this title.

## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS**

##### **Environment § 2-105. Air pollution emergency**

(a) Secretary to advise Governor; executive order. --

(1) In accordance with the rules and regulations adopted by the Department, the Secretary shall advise the Governor when an air pollution emergency exists or is reasonably certain to occur.

(2) When so advised, the Governor may issue an executive order that:

(i) Proclaims an air pollution emergency; and

(ii) Requires the immediate elimination of specifically identifiable sources of air pollution.

(b) Enforcement of executive order by Attorney General. -- If a person violates an executive order issued under this section, the Attorney General may sue in a court of appropriate jurisdiction to enforce compliance with the order.

## **PUBLIC UTILITIES**

### **DIVISION I. PUBLIC SERVICES AND UTILITIES**

#### **TITLE 2. PUBLIC SERVICE COMMISSION AND PEOPLE'S COUNSEL**

##### **SUBTITLE 1. PUBLIC SERVICE COMMISSION**

##### **Public Utilities § 2-112. Jurisdiction; general powers**

(a) Jurisdiction. -- To the full extent that the Constitution and laws of the United States allow, the Commission has jurisdiction over each public service company that engages in or operates a utility business in the State and over motor carrier companies as provided in Title 9 of this article.

(b) General powers. --

(1) The Commission has the powers specifically conferred by law.

(2) The Commission has the implied and incidental powers needed or proper to carry out its functions under this division.

(c) Liberal construction. -- The powers of the Commission shall be construed liberally.

## **Public Utilities § 2-113. Supervisory and regulatory power**

(a) In general. --

(1) The Commission shall:

(i) supervise and regulate the public service companies subject to the jurisdiction of the Commission to:

1. ensure their operation in the interest of the public; and
2. promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination; and

(ii) enforce compliance with the requirements of law by public service companies, including requirements with respect to financial condition, capitalization, franchises, plant, manner of operation, rates, and service.

(2) In supervising and regulating public service companies, the Commission shall consider the public safety, the economy of the State, the conservation of natural resources, and the preservation of environmental quality.

(b) Construction. -- The powers and duties listed in this title do not limit the scope of the general powers and duties of the Commission provided for by this division.

## **Public Utilities § 2-117. Enforcement power**

(a) Action for enforcement. --

(1) If the Commission believes that a public service company or gas master meter operator that is subject to the Commission's jurisdiction is violating or will violate this division, the Commission shall bring an action in the Commission's name for injunction or other appropriate action in the circuit court of a county where the public service company or gas master meter operator does business or has its principal place of business.

(2) The court:

(i) shall allow a period not exceeding 20 days for the defendant to show cause why the relief sought should not be granted;

(ii) after the period, shall inquire immediately into the merits of the case, without other or formal pleadings and without respect to any technical requirement;

(iii) may join as parties any persons as is necessary or proper to make a judgment or process

effective; and

(iv) shall issue a final order that grants appropriate relief.

(b) Action against vehicle registration. --

(1) The Commission shall notify an offender to appear and answer charges on complaint filed by a carrier or on discovery of a violation or infringement by the Commission's own investigation that:

(i) the offender is or has been infringing on or violating a permit granted to the carrier by the Commission;

(ii) the offender, without a permit, is exercising or using a right granted in a permit;

(iii) a right granted in a permit is being subjected to unrestricted or unregulated competition;  
or

(iv) the offender, without a permit, is serving, wholly or partly, directly or indirectly, a route set forth in a granted permit.

(2) The notice shall be sent to or served on the offender as provided by § 3-103 of this article.

(3) If the Commission finds that the offender is violating or infringing, or has violated or infringed on the rights of a carrier, the Commission shall order the offender to stop the operations that led to the violation or infringement.

(4) If the offender does not obey the order of the Commission, the Commission shall notify the offender to show cause within 10 days after the notice is mailed or served why the registration certificate for each vehicle involved in the operations should not be suspended or revoked.

(5) If cause is not shown or if, after hearing, the Commission finds that cause is not shown, the Commission shall certify to the Motor Vehicle Administration:

(i) that the registration certificate of each vehicle involved in the operations shall be suspended or revoked;

(ii) the condition of the suspension or revocation; and

(iii) if possible, the license number of each vehicle for which the certificate of registration is to be suspended or revoked.

(6) On receipt of the certification, the Motor Vehicle Administration automatically shall suspend or revoke each certificate of registration in accordance with the conditions contained in the certification.

(7) The action of the Motor Vehicle Administration may not be appealed but judicial review of an order or certification of the Commission may be sought as provided in Title 3, Subtitle 2 of this article.

## **Public Utilities § 2-121. Regulations**

The Commission may adopt reasonable regulations as necessary to carry out any law that relates to the Commission.

## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 2. AIR QUALITY CONTROL ADVISORY COUNCIL**

##### **Environment § 2-201. Council established**

There is an Air Quality Control Advisory Council in the Department.

##### **Environment § 2-202. Membership**

(a) Composition; appointment of members. --

(1) The Council consists of not more than 15 members appointed by the Secretary.

(2) Of the Council members:

(i) 1 shall be appointed from a list of 3 qualified individuals who are professional engineers licensed in this State, submitted to the Secretary by the Baltimore section of the American Society of Mechanical Engineers;

(ii) 1 shall be appointed from a list of 3 qualified individuals submitted to the Secretary by the Maryland section of the American Institute of Chemical Engineers;

(iii) 2 shall be individuals who are employed in a manufacturing or public utility business in this State, each appointed from a separate list of 3 qualified individuals submitted to the Secretary by the Maryland Chamber of Commerce;

(iv) 1 shall be a physician;

(v) 1 shall be a member of the Regional Planning Council who is recommended to the Secretary by the Regional Planning Council;

(vi) 1 shall be appointed from a list of 3 qualified individuals submitted to the Secretary by the Maryland Association of Counties;

(vii) 4 shall be appointed, 1 from each list, from lists of 3 qualified individuals submitted to the Secretary by:

1. The Chairman of the Board of Directors of the Council of Governments of Metropolitan Washington;

2. The President of the Johns Hopkins University;

3. The President of the Maryland State-D.C. AFL-CIO; and

4. The Chancellor of the University System of Maryland;

(viii) 2 shall be public members who represent the community at large; and

(ix) 1 shall be a member of the Children's Environmental Health and Protection Advisory Council who has expertise in pediatric environmental health.

(3) In making appointments to the Council, the Secretary shall:

(i) Consider giving appropriate representation to the various geographical areas of this State; and

(ii) Appoint at least 1 member who is engaged actively in farming and knowledgeable in farm and rural pollutant problems.

(b) Tenure; vacancies. --

(1) The term of a member is 5 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Council on July 1, 1986.

(3) The member who represents the Regional Planning Council serves only so long as the member remains on the Regional Planning Council.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

## **Environment § 2-203. Officers**

From among the Council members, the Secretary shall appoint a chairman and a vice chairman.

## **Environment § 2-204. Secretary of Council**

- (a) Appointment. -- The Secretary of the Environment shall appoint a secretary of the Council.
- (b) Council membership not required. -- The secretary of the Council need not be a member of the Council.

## **Environment § 2-205. Meetings; compensation**

- (a) Meetings. -- The Council shall meet at the times and places that the Secretary of the Environment or the chairman determines.
- (b) Compensation and reimbursement for expenses. -- Each member of the Council and the secretary of the Council:
  - (1) May not receive compensation; but
  - (2) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

## **Environment § 2-206. Advisory role of Council**

- (a) Department to submit rule or regulation to Council. -- Before the Department adopts any rule or regulation under this title, the Department shall submit the proposed rule or regulation to the Council for advice.
- (b) Council to make recommendation without 30 days. -- Within 30 days after receiving a proposed rule or regulation from the Department, the Council shall give the Department its advice on the proposal by recommending:
  - (1) Adoption;
  - (2) Rejection; or
  - (3) Modification.

## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 3. RULEMAKING**

## **Environment § 2-301. Air quality rules and regulations -- Adoption**



(a) In general. -- The Department:

(1) May adopt rules and regulations for the control of air pollution in this State, including testing, monitoring, record keeping, and reporting requirements; and

(2) Shall adopt rules and regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition.

(b) Required considerations. -- In adopting any rule or regulation under this title, the Department shall consider, among other things:

(1) The residential, commercial, or industrial nature of the area affected;

(2) Zoning;

(3) The nature and source of various kinds of air pollution;

(4) The problems of any commercial or industrial establishment that may be affected by the rule or regulation; and

(5) The environmental conditions, population density, and topography of any area that may be affected by the rule or regulation.

(c) Grain drying operations. -- Any rule or regulation adopted under this title that relates to grain drying operations shall be adopted with the advice and consent of the State Department of Agriculture.

### **Environment § 2-302. Air quality rules and regulations -- Air quality control areas**

(a) Determination of air quality control areas. -- The Department shall determine and may alter air quality control areas into which this State is divided.

(b) Standards in air quality control areas. -- The Department shall adopt rules and regulations that set emission standards and ambient air quality standards for each of the air quality control areas in this State.

(c) Ambient air quality standards. --

(1) Unless a political subdivision requests a more restrictive standard under § 2-104 of this title, the Department shall set ambient air quality standards for pollutants that are identical to the standards for pollutants for which national primary or secondary ambient air quality standards have been set by the federal government.

(2) To protect the public health, the general welfare, and property of the people of this State,

the Department may set State ambient air quality standards for substances for which national ambient air quality standards have not been set by the federal government.

(3) If the Secretary finds that transportation through the air is a significant factor in the buildup of a pollutant in a substance other than air and that monitoring the substance facilitates control of the pollutant, a State ambient air quality standard may establish a maximum concentration of the pollutant in that substance.

(d) Emission standards. --

(1) Except as provided in paragraph (2) of this subsection, if national ambient air quality standards are attained in an air quality control area, the Department shall set emission standards for that area based on the goal of achieving emission levels that are not more restrictive than necessary to attain and maintain the ambient air quality standards in that area.

(2) The limitations of paragraph (1) of this subsection do not apply to the extent that:

(i) A political subdivision requests a more restrictive standard under § 2-104 of this title; or

(ii) New source performance standards, national prevention of significant deterioration requirements, national emission standards for hazardous pollutants, or any other requirements of the federal Clean Air Act apply.

(3) For those emissions for which no national ambient air quality standards have been set, the Secretary may set emission standards and requirements for various classes of sources.

### **Environment § 2-303. Air quality rules and regulations -- Procedures for adoption**

(a) Compliance with Administrative Procedure Act. -- The Department may not adopt any rule or regulation under this title unless the requirements of this section and the Administrative Procedure Act are met.

(b) Public hearing. -- Before adopting any rule or regulation under this title, the Department shall announce and hold a public hearing on the subject.

(c) Notice. --

(1) Until October 1, 2014, at least 30 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation in the area concerned.

(2) The notice required under paragraph (1) of this subsection shall state:

(i) The date, time, and place of the hearing;

(ii) The purpose of the hearing;

(iii) That, beginning on October 1, 2014, all future notices required under this title will be posted on the Department's Web site; and

(iv) A phone number or electronic mail address at the Department that a person can contact to arrange for the receipt of future public notices required under this title by first-class mail or electronic mail.

(3) Beginning on October 1, 2014, at least 30 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation in the area concerned or on the Department's Web site.

(4) The notice required under paragraph (3) of this subsection shall state:

(i) The date, time, and place of the hearing; and

(ii) The purpose of the hearing.

(d) Publication of public notices; contact information. -- Beginning on October 1, 2014, the Department shall publish annually a notice in a newspaper of general circulation to inform the public of:

(1) The types of public notices required under this title that are available on the Department's Web site; and

(2) A phone number or electronic mail address at the Department that a person can contact to arrange for the receipt of future public notices required under this title by first-class mail or electronic mail.

(e) Action after hearing. -- After the public hearing, the Department may adopt the rule or regulation with or without modification.

## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 4. PERMITS AND REGISTRATION**

##### **Environment § 2-403. Permits or registration -- Fees**

(a) In general. --

(1) The Department, by regulation, shall require and collect a fee for each permit issued under § 2-401 of this subtitle.

(2) In adopting the regulations under this section, the Department shall consult with industry to determine that the permit fee is reasonable and directly related to the actual cost of the permitting and regulatory activity, and does not exceed a certain dollar amount.

(b) Uses. --

(1) The amount of the fees shall cover:

(i) The reasonable cost of reviewing and acting on the application for the permits;

(ii) The reasonable costs incurred in implementing and enforcing the terms and conditions of the permits, exclusive of any court costs or other costs associated with any enforcement actions; and

(iii) The costs identified in § 502(b)(3) of the Clean Air Act Amendments of 1990.

(2) Fees assessed and collected under this section shall be used exclusively for the development and administration of the permit program under this subtitle.

(c) Amount. --

(1) The fee established under this section may not exceed:

(i) \$ 50 per ton of regulated emissions; and

(ii) \$ 500,000 for any single source in calendar years 2008 and 2009.

(2) For purposes of calculating fees under this section, carbon dioxide emissions shall be excluded.

(3) The fee established under this section may be adjusted to reflect changes in the Consumer Price Index, as authorized by 40 C.F.R. Part 70 (Operating Permit Program).

## **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

#### **SUBTITLE 6. ENFORCEMENT; PENALTIES**

##### **Environment § 2-601. Use of agency facilities and services for enforcement**

To the maximum extent possible, the Department shall use the facilities and services of appropriate agencies of political subdivisions to enforce the standards set under this title.

##### **Environment § 2-602. Orders -- In general**

(a) Issuance. -- The Department may issue a show-cause order or a corrective order under this section if the Department has reasonable grounds to believe that the person to whom the order is directed has violated:

- (1) This title;
  - (2) Any rule or regulation adopted under this title;
  - (3) Any plan for compliance issued under this title; or
  - (4) Any permit or registration issued under § 2-401 of this title.
- (b) Order not prerequisite to other action. -- The Department is not required to issue a show-cause order or a corrective order before enforcing this title by injunction or civil penalty under this subtitle.

**Environment § 2-603. Orders -- Show-cause orders**

- (a) Contents. -- A show-cause order issued under this subtitle shall:
- (1) Specify the provision that allegedly has been violated;
  - (2) Describe the nature and extent of the alleged violation;
  - (3) Require the person charged to appear at a hearing and show cause why an order requiring corrective action should not be issued; and
  - (4) State the date, time, and place of the hearing.
- (b) Service. -- Each show-cause order issued under this subtitle shall be in writing and shall be served:
- (1) Not less than 20 days before the time set for the hearing; and
  - (2) As a summons is served under the Maryland Rules or by certified mail.

**Environment § 2-604. Orders -- Corrective orders**

- (a) Contents. -- A corrective order issued under this subtitle shall:
- (1) Specify the provision that allegedly has been violated;
  - (2) Describe the nature and extent of the alleged violation;
  - (3) Require corrective action within a time specified in the order; and
  - (4) State that the person charged will receive a hearing if the person requests the hearing within 10 days after service.

(b) Service. -- Each corrective order issued under this subtitle shall be in writing and shall be served:

(1) As a summons is served under the Maryland Rules; or

(2) By certified mail.

(c) Final order; request for hearing. -- Unless the person charged with a corrective order requests a hearing within 10 days after service, the corrective order becomes a final order.

(d) Hearing. -- If the person charged with a corrective order makes a timely request for a hearing under subsection (c) of this section, the Secretary shall:

(1) Hold a hearing within 20 days after the request is made; and

(2) Give the person written notice of the date, time, and place of the hearing, at least 10 days before the hearing date.

#### **Environment § 2-605. Orders -- Hearings**

(a) Application of Administrative Procedure Act. -- The Department shall give notice of and hold any hearing held under § 2-603 or § 2-604 of this subtitle in accordance with the Administrative Procedure Act and the requirements of this section.

(b) Examination of information. -- Before the hearing, the person charged, on request, shall be given an opportunity to examine all information and reports that relate to the alleged offense.

(c) Right to counsel. -- The person charged may be represented at the hearing by counsel.

(d) Confidential information. -- A person may withhold information about secret processes or methods of manufacture or production from any public hearing under this subtitle, and the Department and its personnel shall keep confidential any such information that it requires, ascertains, or discovers.

(e) Testimony. -- Testimony taken at the hearing shall be under oath and recorded.

(f) Copies of transcript or record. -- Copies of the transcript and of any other record of the hearing shall be provided to the person charged at that person's request and expense.

(g) Subpoenas; oaths. --

(1) The Secretary or a designee of the Secretary may issue subpoenas for any person or evidence and administer oaths in connection with any proceeding under this section.

(2) At the request and the expense of the person charged, the Secretary or a designee of the Secretary shall subpoena any person or evidence on behalf of the person charged.

(3) If a person fails to comply with a notice of hearing or a subpoena issued under this section, the circuit court for the county where the person charged resides, on petition of the Secretary, may:

- (i) Compel obedience to the notice or subpoena; or
- (ii) Compel testimony or the production of evidence.

#### **Environment § 2-606. Orders -- Action after hearing**

On the basis of the evidence produced at a hearing, the Secretary or the designated hearing officer may issue a corrective or other final order:

(1) Granting an exception from a rule or regulation adopted under this title on such conditions as the Secretary may determine; or

(2) Directing the person charged to comply, within a specified time, with any rule or regulation that the person is found to be violating.

#### **Environment § 2-607. Orders -- Judicial review**

(a) Right to appeal. --

(1) Any person aggrieved by a final decision of the Secretary or the designated hearing officer in connection with a show-cause order, a corrective order, or any other final order issued under this subtitle may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(b) Stay of order. -- An appeal under this section does not stay automatically the order from which the appeal is taken.

#### **Environment § 2-608. Department to secure compliance**

(a) Action required within 1 year. -- Within 1 year after the Department issues a show-cause order or a corrective order, the Department shall take final action and attempt to secure compliance with any final order. If the Department has not secured compliance within this period, the Department shall take immediate steps to seek enforcement under § 2-609 of this subtitle.

(b) Action permitted within 1 year. -- Nothing in this section prohibits the Department from bringing an action under § 2-609 of this subtitle within 1 year after the Department issues a show-cause order or a corrective order under this subtitle.

#### **Environment § 2-609. Enforcement actions**

(a) In general. -- The Department may bring:

(1) An action to enjoin any conduct that violates any provision of this title or any rule, regulation, or order adopted or issued under this title; or

(2) A civil action to collect a civil penalty under § 2-610 of this subtitle.

(b) Action not exclusive. -- The right to bring an action under subsection (a) of this section is in addition to and not instead of the right to bring any other action under that subsection.

(c) Judicial extension. -- For good cause shown, the court that hears a proceeding to enforce an order issued under this subtitle may grant, without further penalty to the violator, a reasonable extension of time to abate the violation.

#### **Environment § 2-609.1. Criminal penalty**

(a) "Approval" defined. -- In this section, "approval" means approval for prevention of significant deterioration or approval of new sources in nonattainment areas.

(b) Knowing violations under this title; penalties. --

(1) (i) A person may not knowingly act or fail to act in violation of a condition or requirement imposed on the person by a permit or approval issued under this title.

(ii) A person may not knowingly fail to obtain a permit or approval that the person knows or should have known is required under this title.

(iii) A person may not violate a duty imposed on the person by a rule, regulation, order, or approved plan for compliance adopted or issued under this title with knowledge that the person's conduct constitutes a violation of the duty.

(2) A person who violates a provision of this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) For a first offense, a fine not exceeding \$ 25,000 or imprisonment not exceeding 1 year or both; or



(ii) For a violation committed after a first conviction under this section, a fine not exceeding \$ 50,000 or imprisonment not exceeding 2 years or both.

(3) Each day on which violations occur is a separate violation under this subsection.

(4) This subsection does not apply to violations enumerated in subsection (c) of this section.

(c) Additional knowing violations; penalties. -- A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$ 10,000 for each day of violation or imprisonment not exceeding 6 months or both if the person:

(1) Knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or any rule, regulation, order, approved plan for compliance, approval, or permit adopted or issued under this title; or

(2) Knowingly falsifies, tampers with, or renders inaccurate any monitoring device or methods required to be maintained under this title or any rule, regulation, order, approved plan for compliance, approval, or permit adopted or issued under this title.

### **Environment § 2-610. Civil penalty**

(a) In general. -- A person who violates any provision of this title or any rule, regulation, or order adopted or issued under this title is liable for a civil penalty not exceeding \$ 25,000, to be collected in a civil action in the circuit court for any county. Each day a violation continues is a separate violation under this section.

(b) Compromise. -- If the Attorney General concurs, the Secretary may compromise and settle any claim for a civil penalty under this section.

(c) Remission of penalty. -- If, within 36 months after a civil penalty is compromised and settled under subsection (b) of this section, the person against whom the penalty is imposed satisfies the Secretary that the violation has been eliminated or the order has been satisfied, the Secretary, with the concurrence of the Attorney General, may return to the person not more than 75 percent of the amount of the penalty paid.

### **Environment § 2-610.1. Additional civil penalties**

(a) Authority of Department to impose. -- In addition to any other remedies available at law or in equity and after an opportunity for a hearing which may be waived in writing by the person accused of a violation, the Department may impose a penalty for violation of any provision of this title, Subtitle 4 of Title 6 of this article, or any rule, regulation, order, plan for compliance, registration, or permit adopted or issued under those provisions.

(b) Notice to alleged violators. -- Before taking any action under this section, the Department shall provide the alleged violator with written notice of the proposed action and an opportunity for an informal meeting.

(c) Amount of penalty. --

(1) The penalty imposed on a person under this section shall be:

(i) Up to \$ 2,500 for each violation;

(ii) Not more than \$ 50,000 total for any single administrative hearing; and

(iii) Assessed with consideration given to:

1. The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

2. Any actual harm to human health or to the environment, including injury to or impairment of the air quality or the natural resources of this State;

3. The cost of control;

4. The nature and degree of injury to or interference with general welfare, health, and property;

5. The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety;

6. The available technology and economic reasonableness of controlling, reducing, or eliminating the emissions that caused the violation; and

7. The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

(2) Each day a violation occurs is a separate violation under this section.

(3) Any penalty imposed under this section is payable to this State and collectible in any manner provided at law for the collection of debts.

(4) If any person who is liable to pay a penalty imposed under this section fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:

(i) A lien in favor of this State on any property, real or personal, of the person; and

(ii) Recorded in the office of the clerk of court for the county in which the property is located.

### **Environment § 2-610.2. Criminal prosecution**

Repealed by Acts 2008, chs. 193 and 194, § 1, effective October 1, 2008.

### **Environment § 2-611. Plan for compliance**

(a) Submission and effect. -- A person is not subject to action for a violation of this title or any rule or regulation adopted under this title so long as the person acts in accordance with a plan for compliance that:

(1) The person has submitted to the Secretary; and

(2) The Secretary has approved, with or without amendments, on the recommendation of the Air Management Administration.

(b) Duty of Secretary to act. -- The Secretary shall act on any plan for compliance within 90 days after the plan for compliance is submitted to the Secretary.

### **Environment § 2-612. Noncompliance penalty**

(a) Rules and regulations. -- The Secretary may adopt rules and regulations that:

(1) Are patterned after § 120 of the federal Clean Air Act and the federal regulations adopted under § 120 of the federal Clean Air Act; and

(2) Specify:

(i) The circumstances under which a person who violates this title is subject to a noncompliance penalty equal to the economic benefit that accrues to the person because of noncompliance;

(ii) The method of calculating the noncompliance penalty;

(iii) The manner of payment of the noncompliance penalty; and

(iv) The circumstances under which a noncompliance penalty collected under this section is subject to rebate.

(b) Quarterly nonpayment penalty. --

(1) If a person fails to pay a noncompliance penalty in a timely manner, the Secretary may require the person to pay an additional nonpayment penalty for each quarter that the noncompliance penalty remains unpaid.

(2) The nonpayment penalty shall equal 20 percent of the total of the person's noncompliance penalties and nonpayment penalties that remain unpaid at the beginning of the quarter.

(c) Judicial enforcement. -- If a person fails to pay a noncompliance penalty or nonpayment penalty imposed under this section, the Department may bring an action to collect the penalty in the same manner as a civil penalty is collected under § 2-610 of this subtitle.

(d) Action not exclusive. -- An action under this section to collect a noncompliance penalty is in addition to and not instead of:

(1) An action under § 2-609 of this subtitle; or

(2) Any other relief under this subtitle.

#### **Environment § 2-613. Conditions not violations**

A condition that is caused by an act of God, a strike, a riot, a catastrophe, or a cause over which an alleged violator has no control is not a violation of this title or any standard set or rule or regulation adopted under this title.

#### **Environment § 2-614. Attorney General responsible for cases arising under provisions of subtitle**

The Attorney General shall take charge of, prosecute, and defend on behalf of this State every case arising under the provisions of this subtitle, including the recovery of penalties.

### **ENVIRONMENT**

### **TITLE 2. AMBIENT AIR QUALITY CONTROL**

### **SUBTITLE 10. HEALTHY AIR ACT.**

#### **Environment § 2-1005. Penalties.**

(a) In general. --

(1) The allowance penalty provisions of this section are in addition to the administrative and civil penalty provisions provided under §§ 2-604, 2-609, 2-610, and 2-610.1 of this title.

(2) Each one-half ounce of mercury and each ton of sulfur dioxide or nitrogen oxides emitted in excess of the limitations set forth or imposed in accordance with § 2-1002 of this subtitle shall

be a separate violation under §§ 2-610 and 2-610.1 of this title.

(b) Failure to meet 2010 to 2012 emission standards. -- If, in any calendar year during the period from January 1, 2010 through December 31, 2012, a person fails to achieve and maintain full compliance with the emissions limitations established by the Department under § 2-1002(e) of this subtitle, the person shall surrender:

(1) One sulfur dioxide allowance for each ton of sulfur dioxide emitted in excess of the emission rate limitation; and

(2) One oxide of nitrogen allowance for every 2 tons of sulfur dioxide emitted in excess of the emission rate limitation.

(c) Failure to meet 2009 to 2011 emission standards. -- If, in any calendar year, during the period from January 1, 2009 through December 31, 2011, a person fails to achieve full compliance with the oxides of nitrogen emission limitations in § 2-1002(e) of this subtitle, the person shall surrender one oxide of nitrogen allowance for each ton of oxides of nitrogen emitted in excess of the required emission rate limitation.

(d) Surrender of allowances. -- A person that surrenders allowances in accordance with subsection (b) or (c) of this section shall surrender the allowances to the Department's surrender account by March 1 of the year following the year in which the person failed to achieve and maintain compliance with the applicable emission limitation.

## **NATURAL RESOURCES**

### **TITLE 3. ENVIRONMENTAL PROGRAMS**

#### **SUBTITLE 3. POWER PLANT RESEARCH PROGRAM**

##### **Natural Resources § 3-303. Power plant environmental research program**

(a) Implementation; effective coordination of assignments; reimbursement of electric companies. -- The Secretary, in consultation with the Director of the Maryland Energy Administration and in cooperation with the Secretaries of the Environment, Agriculture, and Commerce and the Director of Planning and electric company representatives shall implement a continuing research program for electric power plant site evaluation and related environmental and land use considerations. The Secretary shall seek from additional sources recommendations for related research to be included in the program. The additional sources shall include appropriate federal and State agencies, electric companies and technical, scientific or educational institutions or organizations. The Secretary in consultation with the Director of the Maryland Energy Administration shall institute effective procedures for coordinating environmental research assignments to prevent dissipation of money, time, and effort. To this end, the State's electric companies shall be reimbursed from the Fund for environmental research specifically required to satisfy application and permit requirements for any federal, State, or local regulatory agencies, if the electric company has requested reimbursement in advance and furnishes an outline of the program and its estimated cost so that the Secretary can budget it in advance.

(b) Components. -- The program shall include:

(1) General biological and ecological baseline studies, including, but not limited to, appropriate environmental studies of the biology, physics, and chemistry of the Chesapeake Bay and tributaries; sediment and biological surveys to determine and identify essential marine organism nursery areas of the State's waters, including the Chesapeake Bay and tributaries; epibenthos; bottom species; crab; finfish and human use studies;

(2) Research to assist prediction, including but not limited to experimental research, field and laboratory, and the development and provision for physical, mathematical, and biological modeling tools to assist in determining and evaluating the effects of variation of natural waters resulting from electric generating plant operations including changes in temperature, oxygen levels, salinity, biocides, radionuclides, and "heavy" metals. This research also includes collection and organization of relevant information and data necessary to operate physical, mathematical, and biological modeling tools;

(3) Provisions for monitoring operations of electric power facilities located in the State. These provisions include but are not limited to a determination of actual distribution and effect of temperature, salinity, oxygen, radionuclides, "heavy" metals, and biological effects; radiological; "heavy" metals and biocide effects; recreational and commercial fishing gains and losses; and human health and welfare effects;

(4) Research and investigations relating to effects on air resources of electric power plants and effects of air pollutants from power plants on public health and welfare, vegetation, animals, materials, and esthetic values, including baseline studies, predictive modeling, and monitoring of the air mass at sites of proposed or operating electric generating stations, evaluation of new or improved methods for minimizing air pollution from power plants and other matters pertaining to the effect of power plants on the air environment;

(5) An environmental evaluation of electric power plant sites proposed for future development and expansion and their relationship to the waters and air of the State;

(6) Evaluation of the environmental effects of new electric power generation technologies and extraordinary systems related to power plants designed to minimize environmental effects;

(7) Determining the potential for constructive uses of waste energy to be released at proposed electric plant sites; and

(8) Analysis of the socioeconomic impact of electric power generation facilities on the land uses of the State.

## **PUBLIC UTILITIES**

### **DIVISION I. PUBLIC SERVICES AND UTILITIES**

**TITLE 7. GAS, ELECTRIC, AND WATER COMPANIES**  
**SUBTITLE 2. ELECTRIC GENERATION FACILITY PLANNING**

**Public Utilities § 7-205. Electric companies -- Modification of power plant**

(a) "Modification" defined. --

(1) In this section, "modification" means a physical alteration of, replacement of, or other change to the facilities at a power plant, or a change in the fuel used by the plant, that could result in a change of the air emissions from the plant or from a generating unit of the plant.

(2) "Modification" does not include:

(i) routine maintenance or repairs of the facilities of a power plant; or

(ii) a change that the Commission determines will not result in an increase in air emissions from the plant or from a generating unit of the plant.

(b) Prior approval of Commission required. -- Subject to subsections (c) through (e) of this section, a person may not commence a modification without the prior approval of the Commission under this title.

(c) Filing of application. --

(1) Unless the Commission orders otherwise, an application for a modification to a power plant shall be filed with the Commission at least 180 days before the date on which the modification is to commence.

(2) The applicant for the modification shall submit to the Commission and to the Department of the Environment all information relating to the modification, including:

(i) detailed plans and specifications; and

(ii) the impact of the modification on air quality.

(d) Decision. -- The Commission shall render its decision within 150 days after the day the application is filed.

(e) Applicability of temporary fuel variances. -- Notwithstanding the provisions of this section, a modification to a power plant that involves the short-term inability to obtain the type of fuel normally used by the plant is subject to Title 2, Subtitle 5 of the Environment Article.

**Public Utilities § 7-207. Generating stations or transmission lines -- General certification procedure**

(a) Definitions. --

(1) (i) In this section and § 7-208 of this subtitle, "construction" means:

1. any physical change at a site, including fabrication, erection, installation, or demolition; or
2. the entry into a binding agreement or contractual obligation to purchase equipment exclusively for use in construction in the State or to undertake a program of actual construction in the State which cannot be canceled or modified without substantial loss to the owner or operator of the proposed generating station.

(ii) "Construction" does not include a change that is needed for the temporary use of a site or route for nonutility purposes or for use in securing geological data, including any boring that is necessary to ascertain foundation conditions.

(2) In this section, "qualified generator lead line" means an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts and would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a portion of the electric system in Maryland that is owned by an electric company.

(b) Certificate of public convenience and necessity required. --

(1) (i) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction in the State of:

1. a generating station; or
2. a qualified generator lead line.

(ii) If a person obtains Commission approval for construction under § 7-207.1 of this subtitle, the Commission shall exempt a person from the requirement to obtain a certificate of public convenience and necessity under this section.

(iii) Notwithstanding subparagraph (i) of this paragraph, a person may not apply to obtain a certificate of public convenience and necessity for construction of a qualified generator lead line unless:

1. at least 90 days before the filing of an application for a certificate of public convenience and necessity, the person had in good faith offered the electric company that owns that portion of the electric grid in Maryland to which the qualified generator lead line would interconnect a full and fair opportunity for the electric company to construct the qualified generator lead line; and



2. at any time at least 10 days before the filing of an application for a certificate of public convenience and necessity, the electric company:

A. did not accept from the person a proposal or a negotiated version of the proposal under which the electric company would construct the qualified generator lead line; or

B. stated in writing that the electric company did not intend to construct the qualified generator lead line.

(2) Unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, and the Commission has found that the capacity is necessary to ensure a sufficient supply of electricity to customers in the State, a person may not exercise a right of condemnation in connection with the construction of a generating station.

(3) (i) Except as provided in paragraph (4) of this subsection, unless a certificate of public convenience and necessity for the construction is first obtained from the Commission, a person may not begin construction of an overhead transmission line that is designed to carry a voltage in excess of 69,000 volts or exercise a right of condemnation with the construction.

(ii) For construction related to an existing overhead transmission line, the Commission may waive the requirement in subparagraph (i) of this paragraph for good cause.

(iii) Notwithstanding subparagraph (i) of this paragraph and subject to subparagraph (iv) of this paragraph, the Commission may issue a certificate of public convenience and necessity for the construction of an overhead transmission line only if the applicant for the certificate of public convenience and necessity:

1. is an electric company; or

2. is or, on the start of commercial operation of the overhead transmission line, will be subject to regulation as a public utility by an officer or an agency of the United States.

(iv) The Commission may not issue a certificate of public convenience and necessity for the construction of an overhead transmission line in the electric distribution service territory of an electric company to an applicant other than an electric company if:

1. the overhead transmission line is to be located solely within the electric distribution service territory of that electric company; and

2. the cost of the overhead transmission line is to be paid solely by that electric company and its ratepayers.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, for construction related to an existing overhead transmission line designed to carry a voltage in excess of 69,000 volts, the Commission shall waive the requirement to obtain a certificate of public convenience and necessity if the Commission finds that the construction does not:

1. require the person to obtain new real property or additional rights-of-way through eminent domain; or

2. require larger or higher structures to accommodate:

A. increased voltage; or

B. larger conductors.

(ii) 1. For construction related to an existing overhead transmission line, including repairs, that is necessary to avoid an imminent safety hazard or reliability risk, a person may undertake the necessary construction.

2. Within 30 days after construction is completed under subsubparagraph 1 of this subparagraph, a person shall file a report with the Commission describing the work that was completed.

(c) Notice to interested persons. --

(1) On receipt of an application for a certificate of public convenience and necessity under this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately of the application to:

(i) the Department of Planning;

(ii) the governing body of each county or municipal corporation in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(iii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line;

(iv) each member of the General Assembly representing any part of a county in which any portion of the generating station, overhead transmission line, or qualified generator lead line is proposed to be constructed;

(v) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station, overhead transmission line, or qualified generator lead line; and

(vi) all other interested persons.

(2) The Department of Planning shall forward the application to each appropriate State unit and unit of local government for review, evaluation, and comment regarding the significance of the proposal to State, area-wide, and local plans or programs.

(d) Public hearing. --

(1) The Commission shall provide an opportunity for public comment and hold a public hearing on the application for a certificate of public convenience and necessity in each county and municipal corporation in which any portion of the construction of a generating station, an overhead transmission line designed to carry a voltage in excess of 69,000 volts, or a qualified generator lead line is proposed to be located.

(2) The Commission shall hold the public hearing jointly with the governing body of the county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located, unless the governing body declines to participate in the hearing.

(3) Once in each of the 4 successive weeks immediately before the hearing date, the Commission shall provide weekly notice of the public hearing and an opportunity for public comment by advertisement in a newspaper of general circulation in the county or municipal corporation affected by the application.

(4) (i) The Commission shall ensure presentation and recommendations from each interested State unit, and shall allow representatives of each State unit to sit during hearing of all parties.

(ii) The Commission shall allow each State unit 15 days after the conclusion of the hearing to modify the State unit's initial recommendations.

(e) Final action by Commission. -- The Commission shall take final action on an application for a certificate of public convenience and necessity only after due consideration of:

(1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located; and

(2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:

(i) the stability and reliability of the electric system;

(ii) economics;

(iii) esthetics;

(iv) historic sites;

(v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;

(vi) when applicable, air and water pollution; and

(vii) the availability of means for the required timely disposal of wastes produced by any generating station.

(f) Construction of overhead transmission lines. -- For the construction of an overhead transmission line, in addition to the considerations listed in subsection (e) of this section, the Commission shall:

(1) take final action on an application for a certificate of public convenience and necessity only after due consideration of the need to meet existing and future demand for electric service; and

(2) require as an ongoing condition of the certificate of public convenience and necessity that an applicant complies with:

(i) all relevant agreements with PJM Interconnection, L.L.C., or its successors, related to the ongoing operation and maintenance of the overhead transmission line; and

(ii) all obligations imposed by the North America Electric Reliability Council and the Federal Energy Regulatory Commission related to the ongoing operation and maintenance of the overhead transmission line.

(g) Transmission lines near airport runway. --

(1) The Commission may not authorize, and a person may not undertake, the construction of an overhead transmission line that is aligned with and within 1 mile of either end of a public airport runway, unless:

(i) the Federal Aviation Administration determines that the construction of an overhead transmission line will not constitute a hazard to air navigation; and

(ii) the Maryland Aviation Administration concurs in that determination.

(2) A privately owned airport runway shall qualify as a public airport runway under this subsection only if the runway has been on file with the Federal Aviation Administration for at least 2 years as being open to the public without restriction.

**Public Utilities § 7-208. Generating stations or transmission lines -- Joint construction of station and associated lines.**

(a) Definitions. --

(1) In this section the following words have the meanings indicated.

(2) "Qualified offshore wind project" has the meaning stated in § 7-701 of this title.

(3) "Qualified submerged renewable energy line" means:

(i) a line carrying electricity supply and connecting a qualified offshore wind project to the transmission system; and

(ii) a line in which the portions of the line crossing any submerged lands or any part of a beach erosion control district are buried or submerged.

(b) Scope of section. -- This section applies to any person:

(1) constructing a generating station and its associated overhead transmission lines designed to carry a voltage in excess of 69,000 volts;

(2) exercising the right of condemnation in connection with the construction; or

(3) constructing a qualified submerged renewable energy line.

(c) Filing with Commission. --

(1) To obtain the certificate of public convenience and necessity required under § 7-207 of this subtitle for construction under this section, a person shall file an application with the Commission at least 2 years before construction of the facility will commence.

(2) The Commission may waive the 2-year requirement on a showing of good cause.

(d) Contents. -- The applicant shall:

(1) include in an application under this section the information that the Commission requests initially; and

(2) furnish any additional information that the Commission requests subsequently.

(e) Notice and public hearing. --

(1) On the receipt of an application under this section, together with any additional information requested under subsection (d)(2) of this section, the Commission shall provide notice to:

- (i) all interested persons;
- (ii) the Department of Agriculture;
- (iii) the Department of Economic Competitiveness and Commerce;
- (iv) the Department of the Environment;
- (v) the Department of Natural Resources;
- (vi) the Department of Transportation;
- (vii) the Department of Planning; and
- (viii) the Maryland Energy Administration.

(2) On receipt of an application under this section, and whenever additional information is received under subsection (d)(2) of this section, the Commission shall provide notice immediately or require the applicant to provide notice immediately to:

- (i) the governing body of each county or municipal corporation in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed;

- (ii) the governing body of each county or municipal corporation within 1 mile of the proposed location of the generating station or the associated overhead transmission lines;

- (iii) each member of the General Assembly representing any part of a county in which any portion of the generating station or the associated overhead transmission lines is proposed to be constructed; and

- (iv) each member of the General Assembly representing any part of each county within 1 mile of the proposed location of the generating station or the associated overhead transmission lines.

(3) The Commission shall hold a public hearing on the application as required by § 7-207 of this subtitle after:

- (i) the receipt of any additional information requested under subsection (d)(2) of this section that the Commission considers necessary; and

- (ii) any publication of notice the Commission considers to be proper.

(4) (i) At the public hearing, the Commission shall ensure presentation of the information and recommendations of the State units specified in paragraph (1) of this subsection and shall allow the official representative of each unit to sit during hearing of all parties.

(ii) Based on the evidence relating to the unit's areas of concern, the Commission shall allow each unit 15 days after the conclusion of the hearing to modify or affirm the unit's initial recommendations.

(f) Commission decision. -- Within 90 days after the conclusion of the hearing on an application under this section, the Commission shall:

(1) (i) grant a certificate of public convenience and necessity unconditionally;

(ii) grant the certificate, subject to conditions the Commission determines to be appropriate;  
or

(iii) deny the certificate; and

(2) notify all interested parties of its decision.

(g) Inclusion of federal and State environmental laws and standards in certificate. --

(1) The Commission shall include in each certificate it issues under subsection (f) of this section:

(i) the requirements of the federal and State environmental laws and standards that are identified by the Department of the Environment; and

(ii) the methods and conditions that the Commission determines are appropriate to comply with those environmental laws and standards.

(2) The Commission may not adopt any method or condition under paragraph (1)(ii) of this subsection that the Department of the Environment determines is inconsistent with federal and State environmental laws and standards.

(h) Majority required. --

(1) A decision of the Commission regarding the issuance of a certificate requires the vote of a majority of the members of the Commission.

(2) If a majority of the members of the Commission fails to reach agreement on the conditions to be attached to a conditional certificate, the certificate shall be denied.

(i) Additional authority to construct. -- The grant of a certificate by the Commission to any person under subsection (f) of this section constitutes:

(1) authority for the person to dredge and construct bulkheads in the waters or private wetlands of the State and to appropriate or use the waters; and

(2) registration and a permit to construct, as required under Title 2, Subtitle 4 of the Environment Article.

## **STATE GOVERNMENT**

### **TITLE 10. GOVERNMENTAL PROCEDURES**

#### **SUBTITLE 1. ADMINISTRATIVE PROCEDURE ACT -- REGULATIONS**

##### **PART III. PROPOSAL AND ADOPTION**

##### **State Government § 10-111. Time limitations; public hearings**

(a) In general. --

(1) Except as provided in subsection (b) of this section, a unit may not adopt a proposed regulation until:

(i) after submission of the proposed regulation to the Committee for preliminary review under § 10-110 of this subtitle; and

(ii) at least 45 days after its first publication in the Register.

(2) (i) If the Committee determines that an appropriate review cannot reasonably be conducted within 45 days and that an additional period of review is required, it may delay the adoption of the regulation by so notifying the promulgating unit and the Division of State Documents, in writing, prior to the expiration of the 45-day period.

(ii) If notice is provided to the promulgating unit pursuant to subparagraph (i) of this paragraph, the promulgating unit may not adopt the regulation until it notifies the Committee, in writing, of its intention to adopt the regulation and provides the Committee with a further period of review of the regulation that terminates not earlier than the later of the following:

1. the 30th day following the notice provided by the promulgating unit under this subparagraph; or

2. the 105th day following the initial publication of the regulation in the Register.

(3) The promulgating unit shall permit public comment for at least 30 days of the 45-day period under paragraph (1)(ii) of this subsection.

(b) Emergency adoptions. --

(1) The unit may adopt a proposed regulation immediately if the unit:

(i) declares that the emergency adoption is necessary;

(ii) submits the proposed regulation to the Committee and the Department of Legislative



Services, together with the fiscal impact statement required under subsection (c) of this section; and

(iii) has the approval of the Committee for the emergency adoption.

(2) (i) Subject to subparagraphs (ii), (iii), and (iv) of this paragraph, the approval of the Committee may be given:

1. by a majority of its members who are present and voting at a public hearing or meeting of the Committee; or

2. if staff of the Committee tries but is unable to contact a majority of the members of the Committee in a timely manner and immediate adoption is necessary to protect the public health or safety, by its presiding Chairman or, if its presiding Chairman is unavailable, by its cochair.

(ii) If a member of the Committee requests a public hearing on the emergency adoption of a regulation, the Committee shall hold a public hearing.

(iii) 1. If a public hearing is held on the emergency adoption of a regulation, the Committee may not approve the emergency adoption except by a majority vote of the members present and voting at the hearing or at a meeting of the Committee subsequent to the hearing.

2. If a vote on the emergency regulation is not taken at the public hearing or immediately thereafter, the Committee members shall be provided at least 1 week's notice of the scheduling of any subsequent meeting to vote on the regulation.

(iv) Unless the Governor declares that immediate adoption is necessary to protect the public health or safety, the Committee may not approve the emergency adoption of a regulation earlier than 10 business days after receipt of the regulation by the Committee and the Department of Legislative Services.

(3) If there is no request for a public hearing, the staff of the Committee may poll, in person, by telephone, or in writing:

(i) the members of the Committee; or

(ii) if staff of the Committee tries but is unable to contact a majority of the members of the Committee in a timely manner and immediate adoption is necessary to protect the public health or safety, the presiding Chairman or the cochair.

(4) (i) The Committee may impose, as part of its approval, any condition.

(ii) The Committee shall impose, as part of its approval, a time limit not to exceed 180 days on each request for emergency status.

(iii) If the unit does not adopt the regulation finally before the time limit expires, the status of

the regulation reverts to its status before the emergency adoption.

(5) The Committee may rescind its approval by a majority of its members present and voting at a public hearing or meeting of the Committee.

(c) Fiscal impact statement. --

(1) The fiscal impact statement, prepared by the unit and submitted under subsection (b) of this section, shall state:

(i) an estimate of the impact of the emergency regulation on the revenues and expenditures of the State;

(ii) whether the State budget for the fiscal year in which the regulation will become effective contains an appropriation of the funds necessary for the implementation of the emergency regulation;

(iii) if an appropriation is not contained in the State budget, the source of the funds necessary for the implementation of the emergency regulation; and

(iv) whether the emergency regulation imposes a mandate on a local government unit.

(2) If the emergency regulation imposes a mandate on a local government unit, the fiscal impact statement shall:

(i) indicate whether the regulation is required to comply with a federal statutory or regulatory mandate;

(ii) if the information may be practicably obtained given the emergency circumstances of the regulations, include an estimate of the impact of the emergency regulation on the revenues and expenditures of local government units; and

(iii) if applicable, and if the required data is available, include the estimated effect on local property tax rates.

#### **State Government § 10-111.1. Opposition to adoption**

(a) In general. --

(1) Prior to the expiration of any period of review granted to or reserved by the Committee pursuant to § 10-111(a) of this subtitle, the Committee, by a majority vote, may oppose the adoption of any proposed regulation.

(2) Unless waived by both of the presiding officers, at least 2 weeks prior to acting pursuant to subsection (a)(1) of this section with respect to any proposed regulation, the Committee shall

notify the presiding officers who shall notify the appropriate standing committees that the special procedure established by this section may be exercised.

(b) Factors considered. -- In its review of a proposed regulation pursuant to this section, the factors the Committee shall consider shall include whether the regulation:

(1) is in conformity with the statutory authority of the promulgating unit; and

(2) reasonably complies with the legislative intent of the statute under which the regulation was promulgated.

(c) Notice to Governor and promulgating unit. --

(1) Within 5 working days after the Committee votes to oppose the adoption of a proposed regulation, it shall provide written notice to the Governor and the promulgating unit of its action.

(2) Upon receipt of such notice, and with written notice to the Committee and as otherwise required by law, the promulgating unit may:

(i) withdraw the regulation;

(ii) modify the regulation, but only in accordance with § 10-113 of this subtitle; or

(iii) submit the regulation to the Governor with a statement of the justification for the unit's refusal to withdraw or modify the regulation.

(3) Following the receipt of notice under paragraph (2)(iii) above, the Governor may consult with the Committee and the unit in an effort to resolve the conflict. After written notice has been provided to the presiding officers and to the Committee, the Governor may:

(i) instruct the unit to withdraw the regulation;

(ii) instruct the unit to modify the regulation, but only in accordance with § 10-113 of this subtitle; or

(iii) approve the adoption of the regulation.

(d) Approval of Governor. -- A proposed regulation opposed by the Committee pursuant to this section may not be adopted, and is not effective unless approved, by the Governor pursuant to subsection (c)(3) of this section.

## **State Government § 10-112. Procedures for publication**

(a) In general. --

(1) This subsection does not apply to the emergency adoption of a regulation.

(2) To have a proposed regulation published in the Register, a unit shall submit to the Administrator:

(i) the proposed regulation; and

(ii) a notice of the proposed adoption.

(3) The notice under this subsection shall:

(i) state the estimated economic impact of the proposed regulation on:

1. the revenues and expenditures of units of the State government and of local government units; and

2. groups such as consumer, industry, taxpayer, or trade groups;

(ii) include a statement of purpose;

(iii) satisfy the requirements of § 2-1505.2 of this article;

(iv) comply with § 7-113(c) of the Human Services Article; and

(v) give persons an opportunity to comment before adoption of the proposed regulation, by:

1. setting a date, time, and place for a public hearing at which oral or written views and information may be submitted; or

2. giving a telephone number that a person may call to comment and an address to which a person may send comments.

(4) (i) The estimated economic impact statement required under paragraph (3)(i) of this subsection shall state whether the proposed regulation imposes a mandate on a local government unit.

(ii) If the proposed regulation imposes a mandate, the fiscal impact statement shall:

1. indicate whether the regulation is required to comply with a federal statutory or regulatory mandate; and

2. include, in addition to the estimate under paragraph (3)(i)1 of this subsection, the estimated effect on local property tax rates, if applicable, and if the required data is available.

(b) Emergency adoption. -- As soon as the Committee approves emergency adoption of a regulation, the Committee shall submit the regulation to the Administrator.

(c) Form. -- If a regulation under this section amends or repeals an adopted regulation, the text of the regulation under this section shall show the changes with the symbols that the Administrator requires.

**State Government § 10-112.1. Publication time requirements for regulations.**

(a) In general. -- Whenever a unit publishes a proposed regulation in the Register in accordance with § 10-112 of this subtitle, the unit shall publish the text of the proposed regulation on the unit's Web site not later than 3 business days after the date that the proposed regulation is published in the Register.

(b) Emergency regulations. -- Whenever a unit submits a regulation to the Committee for approval as an emergency adoption in accordance with § 10-111(b) of this subtitle, the unit shall publish the text of the regulation on the unit's Web site not later than 3 business days after the date that the regulation is submitted to the Committee for approval of emergency adoption.

(c) Compliance requirements. -- To comply with the publication requirement of this section, a unit shall:

(1) publish the text of the regulation on the unit's home page on its Web site; or

(2) provide a link on the unit's home page to the text of the regulation if the text of the regulation is available elsewhere on the unit's Web site.

(d) Effect of failure to publish. -- The failure of a unit to publish the text of a regulation in a timely manner under this section may not invalidate or otherwise affect the adoption of the regulation.

**State Government § 10-113. Changes in proposed regulations.**

(a) "Unit counsel" defined. -- In this section, "unit counsel" has the meaning stated in § 10-107 of this subtitle.

(b) In general. -- If a unit wishes to change the text of a proposed regulation so that any part of the text differs substantively from the text previously published in the Register, the unit may not adopt the proposed regulation unless it is proposed anew and adopted in accordance with the requirements of §§ 10-111 and 10-112 of this subtitle.

(c) Symbolology. -- If the regulation is proposed anew, the changes in the text shall be shown with the symbols that the Administrator requires.

(d) Certification of Attorney General. --

(1) The Administrator shall refuse to publish the notice of adoption of a regulation that differs from the text previously published unless the notice is accompanied by a certification from the Attorney General or the unit counsel that the provisions of subsections (b) and (c) of this section are not applicable.

(2) The certification shall:

- (i) be prepared in the form and according to guidelines specified by the Administrator;
- (ii) contain a description of the nature of each change and the basis for the conclusion; and
- (iii) be published in the Register as part of the notice of adoption.

#### **State Government § 10-114. Notice of adoption**

(a) Required. -- After adopting a regulation, a unit shall submit to the Administrator a notice of adoption, for publication in the Register.

(b) Contents. -- If the text of the adopted regulation is the same or substantially similar to the proposed regulation, the notice shall:

- (1) state that the texts are the same or substantially similar;
- (2) cite the date of the Register in which the proposed regulation was published; and
- (3) show each change in the text with the symbols that the Administrator requires.

### **TRANSPORTATION**

#### **TITLE 23. VEHICLE LAWS -- INSPECTION OF USED VEHICLES AND WARNINGS FOR DEFECTIVE EQUIPMENT**

##### **SUBTITLE 2. MOTOR VEHICLE EMISSIONS INSPECTION**

##### **Transportation § 23-207. Rules and regulations for implementation, administration, regulation, and enforcement of subtitle; required progress reports**

The Administration and the Secretary may jointly adopt rules and regulations as required for purposes of implementation, administration, regulation, and enforcement of the provisions of this subtitle, including rules and regulations that, consistent with federal law, exempt certain vehicles from the inspections and tests under this subtitle.